

**11-17-1. Short title.**

This chapter is known as the "Utah Industrial Facilities and Development Act."

Amended by Chapter 206, 1986 General Session

**11-17-1.5. Purpose of chapter.**

(1) (a) The purposes of this chapter are to stimulate the economic growth of the state, to promote employment and achieve greater industrial development in the state, to maintain or enlarge domestic or foreign markets for Utah industrial products, to authorize municipalities and counties in the state to facilitate capital formation, finance, acquire, own, lease, or sell projects for the purpose of reducing, abating, or preventing pollution and to protect and promote the health, welfare, and safety of the citizens of the state and to improve local health and the general welfare by inducing corporations, persons, or entities engaged in health care services, including hospitals, nursing homes, extended care facilities, facilities for the care of persons with a physical or mental disability, and administrative and support facilities, to locate, relocate, modernize, or expand in this state and to assist in the formation of investment capital with respect thereto.

(b) The Legislature declares that the acquisition or financing, or both, of projects under the Utah Industrial Facilities and Development Act and the issuance of bonds under it constitutes a proper public purpose.

(2) (a) It is declared that the policy of the state is to encourage the development of free enterprise and entrepreneurship for the purpose of the expansion of employment opportunities and economic development.

(b) It is declared that there exists in the state an inadequate amount of locally managed, pooled venture capital in the private sector available to invest in early stage businesses having high growth potential and that can provide jobs for Utah citizens.

(c) It is found that venture capital is required for healthy economic development of sectors of the economy having high growth and employment potential.

(d) It is further found that the public economic development purposes of the state and its counties and municipalities can be fostered by the sale of industrial revenue bonds for the purpose of providing funding for locally managed, pooled new venture and economic development funds in accordance with the provisions of this chapter.

(e) It is declared that in order to assure adequate investment of private capital for these uses, cooperation between private enterprise and state and local government is necessary and in the public interest and that the facilitation of capital accumulation is the appropriate activity of the counties and municipalities of this state and also of the Governor's Office of Economic Development.

(f) It is found that venture capital funds historically, because of the more intensive nature of their relationship with companies in which they invest, tend to concentrate their investments within a relatively close geographical area to their headquarters location.

(g) It is found and declared that investors in economic development or new venture investment funds require for the overall security of their investments reasonable diversification of investment portfolios and that, in the course of this diversification,

investments are often syndicated or jointly made among several financial institutions or funds. It is expressly found and declared that an economic development or new venture investment fund shall from time to time for its optimal profitability and efficiency (which are important for the security and profit of bond purchasers providing funds therefor) cooperate with others who may be located outside of Utah or the county or municipality where the fund is headquartered in the making of investments and that the fund shall be free in the interests of reciprocal relationships with other financial institutions and diversification of risks to invest from time to time in enterprises that are located outside of Utah or the counties or municipalities. It is specifically found that such activity by a locally managed fund, funded in whole or in part with the proceeds of bonds sold under this chapter, is within the public purposes of the state and any county or municipality offering the bonds, provided that the fund locates within Utah or the county or municipality its headquarters where its actual investment decisions and management functions occur and limits the aggregate amount of its investments in companies located outside of Utah to an amount that in the aggregate does not exceed the aggregate amount of investments made by institutions and funds located outside of Utah in Utah companies, that the locally managed fund has sponsored or in which it has invested and that it has brought to the attention of investors outside of Utah.

Amended by Chapter 378, 2010 General Session

**11-17-2. Definitions.**

As used in this chapter:

- (1) "Bonds" means bonds, notes, or other evidences of indebtedness.
- (2) "Energy efficiency upgrade" means an improvement that is permanently affixed to real property and that is designed to reduce energy consumption, including:
  - (a) insulation in:
    - (i) a wall, ceiling, roof, floor, or foundation; or
    - (ii) a heating or cooling distribution system;
  - (b) an insulated window or door, including:
    - (i) a storm window or door;
    - (ii) a multiglazed window or door;
    - (iii) a heat-absorbing window or door;
    - (iv) a heat-reflective glazed and coated window or door;
    - (v) additional window or door glazing;
    - (vi) a window or door with reduced glass area; or
    - (vii) other window or door modifications that reduce energy loss;
  - (c) an automatic energy control system;
  - (d) in a building or a central plant, a heating, ventilation, or air conditioning and distribution system;
  - (e) caulking or weatherstripping;
  - (f) a light fixture that does not increase the overall illumination of a building unless an increase is necessary to conform with the applicable building code;
  - (g) an energy recovery system;
  - (h) a daylighting system;
  - (i) measures to reduce the consumption of water, through conservation or more

efficient use of water, including:

- (i) installation of a low-flow toilet or showerhead;
- (ii) installation of a timer or timing system for a hot water heater; or
- (iii) installation of a rain catchment system; or
- (j) any other modified, installed, or remodeled fixture that is approved as a utility cost-savings measure by the governing body.

(3) "Finance" or "financing" includes the issuing of bonds by a municipality, county, or state university for the purpose of using a portion, or all or substantially all of the proceeds to pay for or to reimburse the user, lender, or the user or lender's designee for the costs of the acquisition of facilities of a project, or to create funds for the project itself where appropriate, whether these costs are incurred by the municipality, the county, the state university, the user, or a designee of the user. If title to or in these facilities at all times remains in the user, the bonds of the municipality or county shall be secured by a pledge of one or more notes, debentures, bonds, other secured or unsecured debt obligations of the user or lender, or the sinking fund or other arrangement as in the judgment of the governing body is appropriate for the purpose of assuring repayment of the bond obligations to investors in accordance with their terms.

(4) "Governing body" means:

- (a) for a county, city, or town, the legislative body of the county, city, or town;
- (b) for the military installation development authority created in Section 63H-1-201, the authority board, as defined in Section 63H-1-102;
- (c) for a state university except as provided in Subsection (4)(d), the board or body having the control and supervision of the state university; and
- (d) for a nonprofit corporation or foundation created by and operating under the auspices of a state university, the board of directors or board of trustees of that corporation or foundation.

(5) (a) "Industrial park" means land, including all necessary rights, appurtenances, easements, and franchises relating to it, acquired and developed by a municipality, county, or state university for the establishment and location of a series of sites for plants and other buildings for industrial, distribution, and wholesale use.

(b) "Industrial park" includes the development of the land for an industrial park under this chapter or the acquisition and provision of water, sewerage, drainage, street, road, sidewalk, curb, gutter, street lighting, electrical distribution, railroad, or docking facilities, or any combination of them, but only to the extent that these facilities are incidental to the use of the land as an industrial park.

(6) "Lender" means a trust company, savings bank, savings and loan association, bank, credit union, or any other lending institution that lends, loans, or leases proceeds of a financing to the user or a user's designee.

(7) "Mortgage" means a mortgage, trust deed, or other security device.

(8) "Municipality" means any incorporated city or town in the state, including cities or towns operating under home rule charters.

(9) "Pollution" means any form of environmental pollution including water pollution, air pollution, pollution caused by solid waste disposal, thermal pollution, radiation contamination, or noise pollution.

(10) (a) "Project" means:

- (i) an industrial park, land, interest in land, building, structure, facility, system,

fixture, improvement, appurtenance, machinery, equipment, or any combination of them, whether or not in existence or under construction:

(A) that is suitable for industrial, manufacturing, warehousing, research, business, and professional office building facilities, commercial, shopping services, food, lodging, low income rental housing, recreational, or any other business purposes;

(B) that is suitable to provide services to the general public;

(C) that is suitable for use by any corporation, person, or entity engaged in health care services, including hospitals, nursing homes, extended care facilities, facilities for the care of persons with a physical or mental disability, and administrative and support facilities; or

(D) that is suitable for use by a state university for the purpose of aiding in the accomplishment of its authorized academic, scientific, engineering, technical, and economic development functions;

(ii) any land, interest in land, building, structure, facility, system, fixture, improvement, appurtenance, machinery, equipment, or any combination of them, used by any individual, partnership, firm, company, corporation, public utility, association, trust, estate, political subdivision, state agency, or any other legal entity, or its legal representative, agent, or assigns, for the reduction, abatement, or prevention of pollution, including the removal or treatment of any substance in process material, if that material would cause pollution if used without the removal or treatment;

(iii) an energy efficiency upgrade;

(iv) a renewable energy system;

(v) facilities, machinery, or equipment, the manufacturing and financing of which will maintain or enlarge domestic or foreign markets for Utah industrial products; or

(vi) any economic development or new venture investment fund to be raised other than from:

(A) municipal or county general fund money;

(B) money raised under the taxing power of any county or municipality; or

(C) money raised against the general credit of any county or municipality.

(b) "Project" does not include any property, real, personal, or mixed, for the purpose of the construction, reconstruction, improvement, or maintenance of a public utility as defined in Section 54-2-1.

(11) "Renewable energy system" means a product, system, device, or interacting group of devices that is permanently affixed to real property and that produces energy from renewable resources, including:

(a) a photovoltaic system;

(b) a solar thermal system;

(c) a wind system;

(d) a geothermal system, including:

(i) a direct-use system; or

(ii) a ground source heat pump system;

(e) a micro-hydro system; or

(f) another renewable energy system approved by the governing body.

(12) "State university" means an institution of higher education as described in Section 53B-2-101 and includes any nonprofit corporation or foundation created by and operating under their authority.

(13) "User" means the person, whether natural or corporate, who will occupy, operate, maintain, and employ the facilities of, or manage and administer a project after the financing, acquisition, or construction of it, whether as owner, manager, purchaser, lessee, or otherwise.

Amended by Chapter 345, 2013 General Session

**11-17-3. Powers of municipalities, counties, and state universities.**

(1) A municipality, county, and state university may:

(a) finance or acquire, whether by construction, purchase, devise, gift, exchange, or lease, or any one or more of those methods, and construct, reconstruct, improve, maintain, equip, and furnish or fund one or more projects, within this state, and which shall be located within, or partially within, the municipality or county or within the county within which a state university is located, unless an agreement under Title 11, Chapter 13, Interlocal Cooperation Act, has been entered into as authorized by Subsection (5), except that if a governing body finds, by resolution, that the effects of international trade practices have been or will be adverse to Utah manufacturers of industrial products and, therefore, it is desirable to finance a project in order to maintain or enlarge domestic or foreign markets for Utah industrial products, a project may consist of the financing on behalf of a user of the costs of acquiring industrial products manufactured in, and which are to be exported from, the state;

(b) finance for, sell, lease, contract the management of, or otherwise dispose of to, any person, firm, partnership, or corporation, either public or private, including without limitation any person, firm, partnership, or corporation engaged in business for a profit, any or all of its projects upon the terms and conditions as the governing body considers advisable and which do not conflict with this chapter;

(c) issue revenue bonds for the purpose of defraying the cost of financing, acquiring, constructing, reconstructing, improving, maintaining, equipping, furnishing, or funding any project and secure the payment of the bonds as provided in this chapter, which revenue bonds may be issued in one or more series or issues where considered advisable, and each series or issue may contain different maturity dates, interest rates, priorities on securities available for guaranteeing payment of them, and other differing terms and conditions considered necessary and not in conflict with this chapter;

(d) (i) grant options to renew any lease with respect to any project and to buy any project at a price the governing body considers desirable; and

(ii) sell and convey any real or personal property acquired under Subsection (1)(a) at public or private sale, and make an order respecting the sale considered conducive to the best interests of the municipality, county, or state university, the sale or conveyance to be subject to the terms of any lease but to be free and clear of any other encumbrance;

(e) establish, acquire, develop, maintain, and operate industrial parks; and

(f) offer to the holders of its bonds issued under this chapter the right, where its governing body considers it appropriate, to convert the bonds or some portion of the bond obligation into an equity position in some or all of the assets developed with the proceeds of the bond offering.

(2) (a) An economic development or new venture investment fund is considered

to be located in the municipality or county where its headquarters is located or where any office of it is located, if it is headquartered within the state.

(b) An economic development or new venture investment fund need not make all of its investments within the state or the county or municipality, if it:

(i) locates within the state, the county, or the municipality its headquarters where its actual investment decisions and management functions occur; and

(ii) limits the aggregate amount of its investments in companies located outside the state to an amount which in the aggregate does not exceed the aggregate amount of investments made by institutions and funds located outside the state in companies headquartered in Utah which the locally managed fund has sponsored or in which it has invested and which it has brought to the attention of investors outside the state.

(c) (i) For purposes of enabling an offering of bonds to fund a fund described in this Subsection (2), a certification of an executive managerial officer of the manager of the fund of the intention to comply with this provision may be relied upon.

(ii) A fund shall at least annually certify to the governmental offeror of the bonds its compliance with this provision.

(3) (a) Before any municipality, county, or state university issues revenue bonds under this chapter for the purpose of defraying the cost of acquiring, constructing, reconstructing, improving, maintaining, equipping, or furnishing any industrial park project, the governing body of the state university, county, or municipality shall:

(i) adopt and establish a plan of development for the tracts of land to constitute the industrial park; and

(ii) by resolution, find:

(A) that the project for the establishment of the industrial park is well conceived and has a reasonable prospect of success, and that the project will tend to provide proper economic development of the municipality or county and will encourage industry to locate within or near the municipality or county; or

(B) in the case of state universities, will further, through industrial research and development, the instructional progress of the state university.

(b) There may be included as a part of any plan of development for any industrial park:

(i) zoning regulations, including:

(A) restrictions on usage of sites within the boundaries of the industrial park;

(B) minimum size of sites; and

(C) parking and loading regulations; and

(ii) methods for the providing and furnishing of police and fire protection and for the furnishing of other municipal or county services which are considered necessary in order to provide for the maintenance of the public health and safety.

(c) If any water or sewerage facilities are to be acquired as part of the development of the land for an industrial park under this chapter, water and sewerage facilities may be acquired as part of the issue of bonds issued under this chapter, through the issuance of bonds payable from water and sewer charges as provided by law, in combination with an issue of refunding bonds, in combination with an issue of bonds upon the consent of the holders of outstanding bonds issued for the same purpose, in combination with bonds issued for the purposes of financing water and sewer facilities which will not be a part of an industrial park, or in any combination of the

foregoing.

(d) (i) A municipality, county, or state university establishing an industrial park may lease any land acquired and developed as part of an industrial park to one or more lessees.

(ii) The lessee may sublease all or a portion of the land so leased from the municipality or county.

(iii) A municipality, county, or state university may sell or lease land in connection with the establishment, acquisition, development, maintenance, and operation of an industrial park project.

(iv) A lease or sale of land shall be undertaken only after the adoption by the governing body of a resolution authorizing the lease or sale of the land for industrial park purposes.

(4) (a) (i) A municipality, county, or state university may not:

(A) operate any project under this section, as a business or in any other manner, except as the lessor or administrator of it; or

(B) acquire any project, or any part of it, by condemnation.

(ii) The provisions of Subsection (4)(a)(i) do not apply to projects involving research conducted, administered, or managed by a state university.

(b) Except for a project described in Subsection 11-17-2(10)(a)(ii) or (vi), a municipality, county, or state university may not, under this chapter, acquire or lease projects, or issue revenue bonds for the purpose of defraying the cost of any project or part of it, used for the generation, transmission, or distribution of electric energy beyond the project site, or the production, transmission, or distribution of natural gas.

(5) (a) A municipality, county, or state university may enter, either before or after the bonds have been issued, into interlocal agreements under Title 11, Chapter 13, Interlocal Cooperation Act, with one or more municipalities, counties, state universities, or special service districts created under Title 17D, Chapter 1, Special Service District Act, in order to accomplish economies of scale or other cost savings and any other additional purposes to be specified in the interlocal agreement, for the issuance of bonds under this chapter on behalf of all of the signatories to the interlocal agreement by one of the municipalities, counties, or state universities which is a signatory to the interlocal agreement for the financing or acquisition of projects qualifying as a project.

(b) For all purposes of Section 11-13-207 the signatory to the interlocal agreement designated as the issuer of the bonds constitutes the administrator of the interlocal agreement.

(6) Notwithstanding the provisions of Subsection (4), the governing body of any state university owning or desiring to own facilities or administer projects may:

(a) become a signatory to the interlocal agreement under Subsection (5);

(b) enter into a separate security agreement with the issuer of the bonds, as provided in Section 11-17-5 for the financing or acquisition of a project to be owned by the state university;

(c) enter into agreements to secure the obligations of the state university under a security agreement entered into under Subsection (6)(b), or to provide liquidity for the obligations including, without limitation, letter of credit agreements with banking institutions for letters of credit or for standby letters of credit, reimbursement agreements with financial institutions, line of credit agreements, standby bond purchase

agreements, and to provide for payment of fees, charges, and other amounts coming due under the agreements entered into under the authority contained in this Subsection (6)(c);

(d) provide in security agreements entered into under Subsection (6)(b) and in agreements entered into under Subsection (6)(c) that the obligations of the state university under an agreement shall be special obligations payable solely from the revenues derived from the operation or management of the project, owned by the state university and from net profits from proprietary activities and any other revenues pledged other than appropriations by the Utah Legislature, and the governing body of the state university shall pledge all or any part of the revenues to the payment of its obligations under an agreement; and

(e) in order to secure the prompt payment of the obligations of the state university under a security agreement entered into under Subsection (6)(b) or an agreement entered into under Subsection (6)(c) and the proper application of the revenues pledged to them, covenant and provide appropriate provisions in an agreement to the extent allowed under Section 53B-21-102.

(7) Notwithstanding the provisions of Subsection (4), the governing body of any municipality, county, or special service district owning, desiring to own, or administering projects or facilities may:

(a) become a signatory to the interlocal agreement provided in Subsection (5);

(b) enter into a separate security agreement with the issuer of the bonds, as provided in Section 11-17-5, for the financing or acquisition of a project to be owned by the municipality, county, or special service district, except that no municipality, county, or special service district may mortgage the facilities financed or acquired;

(c) enter into agreements to secure the obligations of the municipality, county, or special service district, as the case may be, under a security agreement entered into under Subsection (7)(b), or to provide liquidity for the obligations including, without limitation, letter of credit agreements with banking institutions for letters of credit or for standby letters of credit, reimbursement agreements with financial institutions, line of credit agreements, standby bond purchase agreements, and to provide for payment of fees, charges, and other amounts coming due under the agreements entered into under the authority contained in this Subsection (7)(c);

(d) provide in security agreements entered into under Subsection (7)(b) and in agreements entered into under Subsection (7)(c) that the obligations of the municipality, county, or special service district, as the case may be, under an agreement shall be special obligations payable solely from the revenues derived from the operation or management of the project, owned by the municipality, county, or special service district and the governing body of the municipality, county, or special service district shall pledge all or any part of the revenues to the payment of its obligations under an agreement; and

(e) in order to secure the prompt payment of obligations under a security agreement entered into under Subsection (7)(b) or an agreement entered into under Subsection (7)(c) and the proper application of the revenues pledged to them, covenant and provide appropriate provisions in an agreement to the extent permitted and provided for with respect to revenue obligations under Section 11-14-306.

(8) In connection with the issuance of bonds under this chapter, a municipality,



county, or state university may:

(a) provide for the repurchase of bonds tendered by their owners and may enter into an agreement to provide liquidity for the repurchases, including a letter of credit agreement, line of credit agreement, standby bond purchase agreement, or other type of liquidity agreement;

(b) enter into remarketing, indexing, tender agent, or other agreements incident to the financing of the project or the performance of the issuer's obligations relative to the bonds; and

(c) provide for payment of fees, charges, and other amounts coming due under the agreements entered into under Subsection (6).

Amended by Chapter 345, 2013 General Session

#### **11-17-3.5. Powers of Military Installation Development Authority.**

The military installation development authority, created in Section 63H-1-201, is subject to and governed by the provisions of this chapter to the same extent as if the military installation development authority were a municipality.

Enacted by Chapter 92, 2009 General Session

#### **11-17-4. Bonds -- Limitations -- Form and provisions -- Sale -- Negotiability.**

(1) All bonds issued by a municipality or county under this chapter shall be limited obligations of the municipality or county. Bonds and interest coupons issued under this chapter may not constitute nor give rise to a general obligation or liability of the municipality or county or a charge against its general credit or taxing powers. Such limitation shall be plainly stated upon the face of such bonds.

(2) The bonds referred to in Subsection (1) may be authorized by resolution of the governing body, and may:

- (a) be executed and delivered at any time and from time to time;
- (b) be in such form and denominations;
- (c) be of such tenor;
- (d) be in registered or bearer form either as to principal or interest or both;
- (e) be payable in such installments and at such time or times as the governing body may deem advisable;
- (f) be payable at such place or places either within or without the state of Utah;
- (g) bear interest at such rate or rates, payable at such place or places, and evidenced in such manner;
- (h) be redeemable prior to maturity, with or without premium;
- (i) be convertible into equity positions in any asset or assets acquired or developed with the proceeds of the sale of the bonds; and
- (j) contain such other provisions not inconsistent with this chapter as shall be deemed for the best interests of the municipality or county and provided for in the proceedings of the governing body under which the bonds shall be authorized to be issued.

(3) Any bonds issued under this chapter may be sold at public or private sale in

such manner and at such time or times as may be determined by the governing body to be most advantageous. The municipality or county may pay all expenses, premiums, and commissions which the governing body may deem necessary or advantageous in connection with the authorization, sale, and issuance of such bonds from the proceeds of the sale of such bonds or from the revenues of the project or projects.

(4) All bonds issued under this chapter and all interest coupons applicable thereto shall be construed to be negotiable instruments, despite the fact that they are payable solely from a specified source.

Amended by Chapter 378, 2010 General Session

**11-17-4.6. Bonds -- Terms specified by governing body.**

The proceedings of the governing body under which the bonds are authorized to be issued may:

(1) if the bonds bear interest at a variable rate or rates, specify the methods, formulas, or indices by which the interest rate or rates on the bonds may be determined;

(2) specify the terms and conditions under which the bonds may be issued, sold, and delivered, the officer of the issuing municipality, county, or state university responsible for the issuance, execution, and delivery of the bonds, the maximum amount of bonds which may be outstanding at any one time, the source of payment of the bonds, which may include the proceeds of refunding bonds issued under this chapter, and all other details necessary or appropriate for the issuance of bonds not inconsistent with this chapter; and

(3) delegate, by resolution, to one or more officers of the issuing municipality, county, or state university the authority to:

(a) in accordance with and within the parameters set forth in the resolution, approve the final interest rate or rates, price, principal amount, maturity or maturities, redemption features, and other terms of the bond; and

(b) approve and execute all documents relating to the issuance of the bonds.

Amended by Chapter 145, 2011 General Session

**11-17-5. Security for bonds -- Provisions in security agreements -- Limitations -- Liens.**

(1) The principal of and interest on any bonds issued under this chapter:

(a) shall be secured by a pledge and assignment of the revenues out of which the bonds are made payable or by such other sinking fund or security provision as shall in the judgment of the governing body be reasonably designed to assure payment of the obligations to the purchasers thereof; however, the bond purchasers may not in any event have recourse against the general funds or general credit of the governmental offeror;

(b) may be secured by a mortgage covering all or any part of the project; and

(c) may be secured by any other security device deemed most advantageous by the governing body issuing the bonds.

(2) The proceedings under which the bonds are authorized to be issued under

this chapter and any mortgage given to secure them may contain any agreements and provisions customarily contained in instruments securing bonds, including, without limiting the generality of the foregoing, provisions respecting:

- (a) the fixing and collection of revenues for any project covered by the proceedings or mortgage;
  - (b) the terms to be incorporated in the lease, installment purchase agreement, rental agreement, mortgage, trust indenture, loan agreement, financing agreement, or other agreement for the project;
  - (c) the maintenance and insurance of the project;
  - (d) the creation and maintenance of special funds from the revenues of projects;
- and

(e) the rights and remedies available in the event of a default to the bondholders or to the trustee under a mortgage, all as the governing body deems advisable and which is not in conflict with this chapter, except that in making any agreements or provisions a municipality or county may not obligate itself except with respect to the project and the application of the revenues from it and may not incur a general obligation or liability or a charge upon its general credit or against its taxing powers.

(3) The proceedings authorizing any bonds under this chapter and any mortgage securing bonds may provide that, in the event of a default in the payment of the principal of or the interest on the bonds or in the performance of any agreement contained in the proceedings or mortgage, payment and performance may be enforced by the appointment of a receiver with power to charge and collect the revenues from the project and to apply the revenues from the project in accordance with the proceedings or the provisions of the mortgage.

(4) Any mortgage made under this chapter to secure bonds issued under it may also provide that, in the event of a default in payment or the violation of any agreement contained in the mortgage, the mortgage may be foreclosed or otherwise realized on in any manner permitted by law. The mortgage may also provide that any trustee under the mortgage or the holder of any of the bonds secured by the mortgage may become the purchaser at any foreclosure sale if the highest bidder. No breach of any agreement imposes any general obligation or liability upon a municipality or county or any charge upon their general credit or against their taxing powers.

(5) The revenues pledged and received are immediately subject to the lien of the pledge without any physical delivery of any lease, purchase agreement, financing agreement, loan agreement, note, debenture, bond, or other obligation under which the revenues are payable, or any other act, except that the proceedings or agreement by which the pledge is created shall be recorded in the records of the municipality, county, or state university. The proceedings or agreement by which the pledge is created, or a financing statement, need not be filed or recorded under the Uniform Commercial Code, or otherwise, except in the records of the municipality, county, or state university as provided in this Subsection (5). The lien of any pledge is valid and binding and has priority as against all parties having claims of any kind in tort, contract, or otherwise against the municipality, county, or state university, irrespective of whether the parties have notice of the lien. Each pledge and agreement made for the benefit or security of any of the revenue bonds issued under this chapter shall continue effective until the principal, interest, and premium, if any, on the revenue bonds have been fully paid or

provision for payment has been made.

Amended by Chapter 378, 2010 General Session

**11-17-6. Refunding bonds.**

Any bonds issued under this act and at any time outstanding may at any time and from time to time be refunded either in advance or by exchange by a municipality or county by the issuance of its refunding bonds in such amount as the governing body may deem necessary. Any such refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds from same to the payment of the bonds to be refunded by such refunding bonds or by exchange of the refunding bonds for the bonds to be refunded by such refunding bonds. Any refunding bonds issued under this act shall be subject to the provisions contained in Section 11-17-4 and may be secured in accordance with the provisions of Section 11-17-5.

Enacted by Chapter 29, 1967 General Session

**11-17-7. Disposition of proceeds of bonds.**

The proceeds from the sale of any bonds issued under this act shall be applied only for the purposes for which the bonds were issued; but any accrued interest and premium received upon any such sale shall be applied to the payment of the principal of or the interest on the bonds sold, and if for any reason any portion of such proceeds are not needed for the purposes for which the bonds were issued, then such unneeded portion of such proceeds shall be applied to the payment of the principal of or the interest on such bonds or in accordance with such other plan or device for the furtherance of the project and the protection of the bondholder as the governing body shall deem appropriate under the circumstances.

Amended by Chapter 378, 2010 General Session

**11-17-8. Items included in cost of project.**

The cost of acquiring or improving any project includes the following:

- (1) the actual cost of acquiring or improving real estate;
- (2) the actual cost of enlarging, constructing, reconstructing, improving, maintaining, equipping, or furnishing all or any part of a project which may be constructed, including architects' or engineers' fees;
- (3) all expenses in connection with the authorization, sale, and issuance of the bonds to finance such acquisition or improvement, enlargement, construction, reconstruction, improvement, maintenance, equipping, or furnishing, including legal fees, financial advisers fees, letter of credit fees, line of credit or other liquidity agreement fees, bank acceptance fees, fees of tender agents, remarketing agents and indexing agents, premiums for bond insurance or insurance of the obligations of users under security agreements, printing costs, underwriters' discount, reserves to pay principal and interest on the bonds, and the interest on bonds for a reasonable time prior to construction, during construction, and for a reasonable period of time after

completion of construction; and

(4) amounts to pay or discharge, or provide for the payment and discharge of, any existing indebtedness incurred to finance or refinance hospital, nursing home, or extended care facility property owned by a user for which a project is to be undertaken under this chapter.

Amended by Chapter 128, 1985 General Session

**11-17-9. Commingling of bond proceeds or revenues with other funds prohibited.**

No part of the proceeds received from the sale of any bonds issued under this act, of any revenues derived from any project acquired or held under this act, or of any interest realized on money received under this act shall be commingled by the county or municipality with other funds of such county or municipality.

Enacted by Chapter 29, 1967 General Session

**11-17-10. Tax exemption for property and bonds -- Exception.**

All property acquired or held by the county or municipality under this chapter is declared to be public property used for essential public and governmental purposes; and all such property and bonds issued under this chapter and the income from them are exempt from all taxes imposed by the state, any county, any municipality, or any other political subdivision of the state, except for the corporate franchise tax. This exemption does not extend to the interests of any private person, firm, association, partnership, corporation, or other private business entity in such property or in any other property such business entity may place upon or use in connection with any project, all of which shall be subject to the provisions of Section 59-4-101 and all other applicable laws nor to any income of such private business entity, which, except as provided in this section for such bonds and the income from them, shall be subject to all applicable laws, regarding the taxing of such income.

Amended by Chapter 378, 2010 General Session

**11-17-11. Construction of act.**

Neither this act nor anything contained in it shall be construed as a restriction or limitation upon any powers which a county or municipality might otherwise have under any laws of this state.

Enacted by Chapter 29, 1967 General Session

**11-17-12. Bonds -- Eligibility as investments and for use as security.**

Bonds issued under this act are hereby made securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, credit unions, building and loan associations, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries, pension, profit-sharing and retirement funds may properly and legally invest

funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now or may hereafter be authorized by law.

Enacted by Chapter 29, 1967 General Session

**11-17-13. Pledge and undertaking for the state.**

The state of Utah does hereby pledge to and agree with the holders of any bonds issued under this act and with those parties who may enter into contracts with any county or municipality under this act, that the state will not alter, impair or limit the rights thereby vested until the bonds, together with applicable interest, are fully met and discharged and such contracts are fully performed. Nothing contained in this act shall preclude such alteration, impairment or limitation if and when adequate provision shall be made by law for the protection of the holders of the bonds or persons entering into contracts with any county or municipality. Each county and municipality is authorized to include this pledge and undertaking for the state in such bonds or contracts.

Enacted by Chapter 29, 1967 General Session

**11-17-14. Uniform Commercial Code not applicable.**

Bonds issued under this act are exempt from the provisions of Title 70A, Uniform Commercial Code.

Amended by Chapter 189, 2014 General Session

**11-17-15. Public bidding laws and rules not applicable.**

The provisions of the various laws of the state of Utah and the rules or ordinances of the county or municipality which would otherwise require public bidding in respect to the acquisition, financing, management, funding, construction, reconstruction, improvement, maintenance, equipping, and furnishing of a project shall have no application to same.

Amended by Chapter 206, 1986 General Session

**11-17-16. Publication of resolutions and notice of bonds to be issued.**

(1) (a) The governing body may provide for the publication of any resolution or other proceeding adopted by it under this chapter, including all resolutions providing for the sale or lease of any land by the municipality, county, or state university in connection with the establishment, acquisition, development, maintenance, and operation of an industrial park.

(b) (i) The publication shall be:

(A) in a newspaper qualified to carry legal notices having general circulation in the municipality or county; or

(B) in the case of a state university, in a newspaper of general circulation in the

county within which the principal administrative office of the state university is located; and

(ii) as required in Section 45-1-101.

(2) In case of a resolution or other proceeding providing for the issuance of bonds, the governing body may, in lieu of publishing the entire resolution or other proceeding, publish a notice of bonds to be issued, titled as such, containing:

(a) the name of the issuer;

(b) the purpose of the issue;

(c) the name of the users, if known;

(d) the maximum principal amount which may be issued;

(e) the maximum number of years over which the bonds may mature; and

(f) the times and place where a copy of the resolution or other proceeding may be examined, which shall be at an office of the issuer, identified in the notice, during regular business hours of the issuer as described in the notice and for a period of at least 30 days after the publication of the notice.

(3) For a period of 30 days after publication any person in interest may contest the legality of the resolution, proceeding, any bonds which may be authorized under them, or any provisions made for the security and payment of the bonds. After expiration of the 30-day period no person may contest the regularity, formality, or legality of the resolution, proceedings, bonds, or security provisions for any cause.

Amended by Chapter 145, 2011 General Session

**11-17-16.1. Agreements authorized by resolution.**

(1) The governing body of any municipality, county, special service district, or state university entering into an agreement pursuant to Section 11-17-3 may provide for the publication of any resolution adopted by it authorizing the execution of the agreement, in a newspaper qualified to carry notices having general circulation therein.

(2) Any agreement authorized to be executed by the resolution may be attached as an exhibit to the resolution and need not be published as part of the resolution if the resolution provides that a copy of the agreement may be examined at an office of the municipality, county, special service district, or state university during regular business hours as described in the resolution and for a period of at least 30 days after the publication of the resolution.

(3) For a period of 30 days after publication of the resolution, any person in interest may contest the legality of the resolution, any agreement authorized thereby, or any provisions made for the security and payment of the obligations of the municipality, county, special service district, or state university under the agreement. After the expiration of the 30-day period no person has any cause of action to contest the regularity, formality, or legality of the resolution or any agreement authorized thereby for any cause.

Amended by Chapter 92, 1987 General Session

**11-17-17. State universities granted same powers as municipalities and counties -- Authority to issue bonds.**

(1) The State Board of Regents may, on behalf of the University of Utah and Utah State University exercise all powers granted to municipalities and counties pursuant to this chapter, except as provided in Subsection (2).

(2) The board may not issue bonds in excess of \$10,000,000 in any one fiscal year under this chapter on behalf of either institution as the borrower without prior approval from the Legislature.

(3) Refunding bonds are exempt from the requirements of Subsection (2) if:

(a) the bonds are issued to reduce debt service costs; and

(b) the refunding bonds mature during the same time frame as the original obligation.

Amended by Chapter 4, 1993 General Session

Amended by Chapter 67, 1993 General Session

**11-17-18. Powers of Governor's Office of Economic Development.**

For purposes of this chapter and for the purposes of the Utah Interlocal Cooperation Act, the Governor's Office of Economic Development has all the powers set out in this chapter of, and is subject to the same limitations as, a municipality as though the office were defined as a municipality for purposes of this chapter, but it shall have such powers with respect to economic development or new venture investment fund projects only. It is not authorized to exercise such powers in any manner which will create general obligations of the state or any agency, department, division, or political subdivision thereof.

Amended by Chapter 148, 2005 General Session

**11-17-20. Power of the Utah Charter School Finance Authority.**

(1) The Utah Charter School Finance Authority may exercise the powers granted to municipalities and counties by this chapter, subject to the same limitations as that imposed on a municipality or county under the chapter, except as provided by Title 53A, Chapter 20b, Part 1, Utah Charter School Finance Authority Act.

(2) As used in this chapter, "governing body" when applied to the Utah Charter School Finance Authority means the authority's governing board as described in Section 53A-20b-103.

(3) Notwithstanding Section 11-17-15, a charter school that receives financing under this chapter is subject to Title 63G, Chapter 6a, Utah Procurement Code.

Amended by Chapter 201, 2012 General Session

Amended by Chapter 347, 2012 General Session